

09-23-05

[Handwritten signature]



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Wan et al.)
Serial No.: 10/654,303)
Filed: September 2, 2003)
For: COMMUNICATIONS)
POINT-OF-PRESENCE)
Group Art Unit: 2682)
Examiner: Tuan A. Tran)
Attorney Docket: Sympel03-01-1)

CERTIFICATE OF FIRST CLASS MAIL
37 C.F.R. § 1.10

I hereby certify that this paper is being:
(X) deposited with the U.S. Postal Service as express mail label no.:
EP88210895805
() in an envelope addressed to:
sent via facsimile transmission to:
Commissioner of Patents and Trademarks
Washington, D.C. 20231
on this date.
Sept. 14, 2005
Date *[Signature]*
Gerald L. Robertson
Attorney for Applicant

RESPONSE TO OFFICE ACTION

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

RECEIVED
OIPE/IAP
SEP 23 2005

Sir:

Status of the Application

The above-referenced application has been rejected under 35 U.S.C. 103(a) as being unpatentable over Zendle et al. (6,628,237) in view of Pedersen (2003/0125089).

One claim is pending, rejected as stated immediately above.

Remarks

In order to sustain an obviousness rejection under 35 U.S.C. 103(a), each of the references cited must constitute prior art over the instant application.

Zendle, relied on first by the examiner in this rejection issued September 30, 2003, 28 days after the instant application was filed. Therefore, it cannot be considered prior art in a 35 U.S.C. 103(a) rejection. As a search of the PAIR system in the United States Patent and Trademark office yields no record of the Zendle application having been published, the actual prior art reference date at operation here would be the issue date as pointed out above. Consequently, it is inappropriate

